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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,248	04/10/2006	Jonas Hermansson	PS03 0158US2	6562

7590 10/15/2008  
Brian E. Ledell  
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EXAMINER
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HSIEH, PING Y

ART UNIT	PAPER NUMBER
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2618

MAIL DATE	DELIVERY MODE
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10/15/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/575,248	<b>Applicant(s)</b> HERMANSSON, JONAS	
	<b>Examiner</b> PING Y. HSIEH	<b>Art Unit</b> 2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 April 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 April 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/10/06</u>   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Drawings***

1. The drawing is objected because: the unlabeled rectangular box(es) shown in the drawings should be provided with descriptive text labels.

### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claim 17 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claimed invention appears to be directed towards a computer program, which is not patentable eligible subject matter. Any computer executable software code must be stored in a computer readable storage medium to enable the underlying functionality. A structural and functional interrelationship between the computer program and the structural elements of the computer, which would permit its functionality to be realized, should be included in the claim. An example of acceptable language under 35 U.S.C. 101 would be "a computer readable medium storing a computer program...".

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 1, 2, 6-9 and 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mergler (U.S. PG-PUB NO. 2003/0054864) in view of Togashi (U.S. PG-PUB NO. 2002/0035914).

-Regarding claims 1, 16 and 17, Mergler discloses a method of using playable electronic media data (**i.e. ringtones**) for notification of events in a portable communication device (**as disclosed in paragraph 2**) comprising setting the data as a notification of events related to the portable communication device (**as disclosed in fig. 2a and further disclosed in paragraphs 24-26**); storing the data (**predefined list of ringtones as disclosed in paragraph 2**); detecting the occurrence of an event for which the electronic media data has been set as a notification (**a call from "Mum" as disclosed in paragraph 27**); retrieving the stored data (**melody 2 as disclosed in paragraph 27**); and playing the multimedia data in dependence of the detection (**a call from "Mum" as disclosed in paragraph 27**). However, Mergler fails to specifically disclose

the playable electronic media data is a playable electronic media received from a network.

Togashi discloses the music data receiving apparatus 3 receives the music data from the music data providing apparatus 1 as disclosed in fig. 1 and further disclosed in paragraph 27.

Therefore, it would have been obvious to one of ordinary skills in the art at the time of invention to modify the mobile telephone as disclosed by Mergler to be able to receive music data from the network. One is motivated as such in order to provide variety of music for personalizing the mobile telephone.

-Regarding claim 2, the combination further discloses the event is an event of receiving a phone call **(Mergler, a call from “Mum” as disclosed in paragraph 27).**

-Regarding claims 6 and 13, the combination further discloses setting the message comprises setting the message as a notification for all events of a certain type **(Mergler, a call from “Family” as disclosed in paragraph 25).**

-Regarding claims 7 and 14, the combination further discloses the setting the message comprises setting the message as a notification for just some events of a certain type **(Mergler, a call from “Mum” as disclosed in paragraph 27).**

-Regarding claim 8, Mergler discloses a portable communication device for using playable electronic media data **(i.e. ringtones)** for notification of events **(as disclosed in paragraph 2)** and comprising an event handling unit **(call**

**handling profile as disclosed in paragraph 23), a data storage (memory 20 as disclosed in paragraph 20), a notification setting storage (memory 20 as disclosed in paragraph 23), a radio circuit (transmitter and receiver circuitry 16 as disclosed in paragraph 21), and the event handling unit is arranged to detect the occurrence of an event for which the electronic media message has been set as a notification (a call from “Mum” as disclosed in paragraph 27), retrieve the stored message from the message storage (melody 2 as disclosed in paragraph 27); set the message as a notification of events handled by the event handling unit and store the message in the message storage (as shown in fig. 2a), play the electronic media message in dependence of the detection (play melody 2 when a call from “Mum” is detected as disclosed in paragraph 27).** However, Mergler fails to disclose the playable electronic media data is a playable electronic media, and a playable electronic media message handling unit, wherein the playable electronic media message handling unit is arranged to receive at least one playable electronic media message from a network.

Togashi discloses the music data receiving apparatus 3 receives the music data from the music data providing apparatus 1 as disclosed in fig. 1 and further disclosed in paragraph 27.

Therefore, it would have been obvious to one of ordinary skills in the art at the time of invention to modify the mobile telephone as disclosed by Mergler to include the components of the receiving apparatus as disclosed by Togashi to be

able to receive music data from the network. One is motivated as such in order to provide variety of music for personalizing the mobile telephone.

-Regarding claim 9, the combination further discloses the event handling unit is a call handling unit **(Mergler, a call from “Mum” as disclosed in paragraph 27).**

-Regarding claim 15, the combination further discloses the portable communication device is a cellular phone **(Mergler, mobile telephone 10 as disclosed in paragraph 20).**

7. Claims 3-5 and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mergler (U.S. PG-PUB NO. 2003/0054864) in view of Togashi (U.S. PG-PUB NO. 2002/0035914) and further in view of Paakkonen (U.S. PG-PUB NO. 2004/0121818).

-Regarding claims 3 and 10, the combination of Mergler and Togashi teaches all the limitations as claimed in claims 1 and 8. However, the combination does not teach the message includes a media file in the form of a sound file arranged to be synchronized with at least one other media file of another type.

Paakkonen discloses a ringing image comprises a combination of sound and images/video with optional textual information as disclosed in abstract.

Therefore, it would have been obvious to one of ordinary skills in the art at the time of invention to modify the music data to include sound and images/video with optional textual information. One is motivated as such in order to provide variety of ringtones for personalizing the mobile telephone.

-Regarding claims 4 and 11, the combination further discloses the message includes a media file in the form of an image file arranged to be synchronized with at least one other media file of another type **(Paakkonen, a ringing image comprises a combination of sound and images/video with optional textual information as disclosed in abstract).**

-Regarding claims 5 and 12, the combination further discloses the message includes a media file in the form of a text file arranged to be synchronized with at least one other media file of another type **(Paakkonen, a ringing image comprises a combination of sound and images/video with optional textual information as disclosed in abstract).**

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PING Y. HSIEH whose telephone number is (571)270-3011. The examiner can normally be reached on Monday-Thursday (alternate Fridays) 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay A. Maung can be reached on 571-272-7882. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/P. Y. H./  
Examiner, Art Unit 2618

/Nay A. Maung/  
Supervisory Patent Examiner, Art  
Unit 2618